

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUL 23 2009

MOLLY C. DWYER, CLERK OF COURT
U.S. COURT OF APPEALS

SOUNTHONE VIET KATEKEO,

Petitioner - Appellant,

V.

T. FELKER, Warden,

Respondent - Appellee.

No. 09-16076

D.C. No. 2:08-cv-02776-JAM-
GGH

Eastern District of California,
Sacramento

MANDATE

The judgment of this Court, entered 7/1/09, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

Molly C. Dwyer
Clerk of Court

By: Gabriela Van Allen
Deputy Clerk

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ORDER

A review of the record suggests that this court may lack jurisdiction over the appeal because appellant's premature appeal from the magistrate judge's findings and recommendations is not cured by the subsequent entry of a final judgment by the district court. *See Serine v. Peterson*, 989 F.2d 371, 372-73 (9th Cir. 1993) (premature appeal from magistrate judge's order not cured by subsequent entry of judgment by district court). To date, appellant has not filed a notice of appeal from the district court's May 22, 2009 judgment.

Within 21 days after the date of this order, appellant shall move for voluntary dismissal of the appeal or show cause why it should not be dismissed for lack of jurisdiction. If appellant elects to show cause, a response may be filed within 8 days after service of the memorandum.

If appellant does not comply with this order, the Clerk shall dismiss this appeal pursuant to Ninth Circuit Rule 42-1.

Briefing is suspended pending further order of the court.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Monica Fernandez
Motions Attorney/Deputy Clerk